Receipt no:- 4924922

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Higher Education - Regularization of services of Uppalapati Madhuri, Part Time Lecturer in Commerce DNR College, Bhimavaram, West Godavari District and five other Part Time Lecturers in compliance with the orders dated.20.12.2018 of Hon'ble High Court of A.P. in W.P.No.39531 of 2012 – Orders – Issued.

HIGHER EDUCATION [C.E.A2] DEPARTMENT

G.O.Ms.No.47 **Dated:02.09.2021**

Read the following:-

1. From the CCE e-file No. 1340469, dated.05.02.2021.
2. Orders dated. 20.12.2018 of Hon'ble High Court of A.P in W.P.No.39531 of 2012
3. Writ Appeal No.218 of 2020 filed against in W.P.No.39531 of 2012 before Hon'ble High Court of A.P. Amaravati.
4. Contempt Case No.1354 of 2020 filed in W.P.No.39531 of 2012 before Hon'ble High Court of A.P. Amaravati.
5. Review Petition on the SLP(C) Diarty No. 014095-014097 of the Hon'ble Supreme Court of India.

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ORDER:

In the reference 1st read above the CCE has informed that the Regional Joint Director of Collegiate Education, Rajahmundry has reported that the Management of DNR College, Bhimavaram during the years 2004, 2005, 2006 engaged (1) Uppalapati Madhuri PTL in Commerce , (2) T.Chitti Babu PTL in Telugu, (3) G.Ranga Rao PTL in Physics, (4) K.Somayya PTL in Geography, (5) Kum.VAS Sridevi PTL in Economics (6)P.V.Lakshmi PTL in Zoology on ad-hoc basis with a consolidated salary per month against certain un-aided courses of the college without obtaining prior permission from the Competent Authority and without following the selection procedure.

2. It is informed that, Smt.Uppalapati Madhuri & 9 others Adhoc/Part Time Lecturers filed W.P.No.39531 of 2012 before the Hon'ble High Court seeking directions to absorb their services against Grant in aid posts in DNR College, Bhimavaram, West Godavari District. The Hon'ble High Court in its common judgement dated: 20.12.2018 in several Writ Petition Nos.7789, 9545, 19360, 22155, 18563, 21920, 22303 & **39531** of 2012 and 23288, 24252, 25317 & 37399 of 2013 filed by certain Un-aided Lecturers/Part-Time Lecturers working in different Aided Degree Colleges ordered as follows.

> ***"allowed the Writ Petitions and set aside the orders rejecting absorption against aided posts passed by the Commissioner of Collegiate Education in the cases of the Petitioners and further directed the State Government of Andhra Pradesh and Commissioner of Collegiate Education to absorb the petitioners in the aided posts of Lecturers in the respective Private Managements with all consequential benefits"***

3. Aggrieved by the above order of the Hon'ble High Court dated: 20.12.2018, a Writ Appeal No.218 of 2020 was filed against W.P.No.39531 of 2012 respectively, before the Hon'ble High Court on the following grounds:

> (i) that the Petitioners were appointed as Part Time Lecturers on ad-hoc basis with consolidated pay during the years 2004, 2005, 2006 by the Management in clear violation of Government instructions issued in

Memo.No.1458/CE.I/91-1, dated: 11.07.1991 and hence they are not entitled for regularization.

(ii) After promulgation of Act 2 of 1994, absorption of the persons working against un-aided posts into aided posts is not permissible.

(iii) Government vide G.O.Ms.No.35, Education Department, dated: 27.03.2006 has taken the decision imposing ban on recruitment of Lecturers in aided colleges in the State of Andhra Pradesh, keeping in view of drastic fall in admissions in aided colleges which resulted in inadequate workload and compelled to redeploy several Surplus Aided Lecturers to needy Government Degree Colleges.

(iv) Initially, the Private Managements are/were permitted to start colleges under specific condition that they will never be sanctioned Grant-in-aid. This itself adequately speak that the Managements of Private Educational Institutions do not have any right to claim for Grant-in-aid from Government and therefore, the candidates employed by the Managements of colleges also do not have any right for Grant-in-aid and cannot compel the Government for Grant -in –aid, because Grant- in-aid to the Private Educational Institutions is not statutory under section 46 of A.P. Education Act 1982.

(v) That the Respondents were appointed after 01.03.1985 as Part Time Lecturers on ad-hoc during 2004, 2005,2006, cannot be considered for Grant in aid in view of Section 3(b) of Act 22 of 1988.

4. The Hon'ble High Court on 31.07.2020 dismissed Writ Appeal No.218 of 2020 by the Hon'ble High Court.

5. In the meanwhile, the Petitioners in W.P.No.39531 of 2012 filed C.C.No.1354 of 2020 for non compliance of the orders dated: 20.12.2018 of the Hon'ble High Court.

6. Aggrieved by the above orders of the Hon'ble High Court dated: 31.07.2020 the Department filed an Appeal SLP (c) No.14095-14097 of 2020 against W.P.No. 39531 of 2012 before the Hon'ble Supreme Court with a prayer to set aside the said order on the following grounds:

(a) In the present case all the Petitioners in WP No.39531 of 2012 were appointed as Part time Lecturers on adhoc basis with a consolidated pay in the un aided posts by the Management with clear mention in the notification that they will not be admitted to Grant in aid either now or in future and hence, the expenditure has to be borne from Management funds. Hence, they are not entitled for Grant in aid as per the provisions of Act 2 of 1994 and Section 3 (b) of Act 22 of 1988.

(b) That all the Petitioners in W.A. No. 218 of 2020 in W.P.No.39531 of 2012 are all Part time Lecturers engaged by the Management in un aided posts. Part time Lecturers are engaged to teach spill over work load. They are selected without adopting any recruitment procedure. Therefore, the Part time Lecturers are not at all entitled for regularization/absorption into Grant in aid. The Government Orders in G.O.Ms.No.328 Education, dated; 15.10.1997 in which a scheme was evolved to regularize the services of Part time Lecturers with reference to the conditions mentioned there in was rescinded in G.O.Ms.No.283 Education, dated: 03.07.1999 as the said scheme was evolved as a onetime measure. Hence, the Part time Lecturers engaged by the Management cannot be regularized as the scheme was once for all rescinded.

(c) According to Section 3 read with Section 7 of Act 2 of 1994 no person who is a daily wage employee and no person who is appointed on a temporary basis and is continuing as such at the commencement of the Act shall have or shall be deemed ever to have a right to claim for regularization of services on any ground and the services of such person shall be liable to be terminated at any time without any notice and without assigning any

reasons. Hence, after promulgation of Act 2 of 1994, absorption of the persons working against un aided posts into aided posts is not permissible. Therefore, any absorption of Lecturers in the aided posts is violative of Act 2 of 1994.

(d) Government permits the Private Managements to start Un aided Colleges, Courses/Sections with a clear mention that such colleges, courses and sections will not be brought under Grant in aid. Therefore, the employees appointed in un aided Colleges, Courses and Sections cannot claim Grant in aid as a matter of right under Section 46 of AP Education Act. Section 46 of A.P.Education Act 2 of 1982 clearly speaks that Grant in aid is not a Statutory right. This was confirmed by the Hon'ble Supreme Court of India in a case of State of Assam Vs Ajit Kumar Sharma following the Judgment, the Division Bench of Hon'ble High Court of AP. in WP No.8697 of 2015, dated:07.11.2005, held that no Private Educational Institutions or its employee has legal right to compel financial assistance by the State. It is rightly observed by the Hon'b1e Courts the managements do not claim financial assistance/Grant in aid as a matter of right.

(e) As per Rule 7(2) (4) of A.P. Educational Institutions (Establishment, Recognition, Administration and control of Institutions of Higher Education) Rules, 1987 issued vide G.O.Ms.No.29 Education, dated: 05.02.1987 in respect of payment of salaries to un aided staff the Management is liable to pay salaries to un-aided staff.

(f) Government vide G.O.Ms.No.35 Education Department, dated: 27.03.2006 has taken the decision imposing ban on recruitment of Lecturers in aided colleges in the State of Andhra Pradesh, keeping in view of drastic fall in admissions in aided colleges which resulted in inadequate workload and compelled to redeploy several Surplus Aided Lecturers to needy Government Degree Colleges.

(g) During the recent years the State Government conducted a survey and assessed the aided workload with reference to the number of students admitted in the colleges. On scrutiny it was observed that the workload in aided sector was disproportionate to the number of aided Lecturers working in aided Sector. Therefore, as many as 226 aided Lecturers who were found surplus were redeployed to Government Degree Colleges where there was need. Even today also, there is no change in the situation. Therefore, further absorption of Un aided/Part time Lecturers into Grant in aid doesn't arise as the Lecturers already working are found surplus.

(h) That as many as 1134 Un aided/Part time Lecturers were appointed by the Managements and are working in Un aided Courses/Sections in Aided Degree Colleges. If a single lecturer is absorbed into Grant in aid, all the remaining Un aided Lecturers will come up with the similar request which would costs the exchequer.

(i) That the Writ Appeals or SLP filed against the orders in W.P. No. 20036 of 2013, dated: 13.10.2013 were dismissed purely on the grounds of delay but not on merits.

(j) That Writ Petition Nos.4105 & 4017 of 2002 & Writ Appeal Nos.1346 0f 2012 & 1470 of 2012 were dismissed. But, SLP Nos.29369-29373 of 2013 was filed before the Hon,ble Supreme Court. The Hon'ble Supreme Court on 09.12.2016 decided the matter and in conclusion observed that at the risk of the repetition, we make it clear that the present direction which we have issued in this order will be restricted to the eight respondents herein and cannot be quoted as a precedent in respect of any other persons. In view of the above orders of the Hon'ble Supreme Court fresh cases need not be decided relying on precedents with a pray to decide each case on its own merits as the Hon'ble High Court while dismissing the Writ Appeal relied up on certain other Writ Petitions allowed by the Hon'ble High Court .

7. The Special Leave Petition (C) No. 014095-14097 of 2020 and review petition filed before the Hon'ble Supreme Court of India were dismissed.

8. Contempt proceedings are in force against Special Chief Secretary to Government, Higher Education Department and, Special Commissioner of Collegiate Education, Andhra Pradesh, Vijayawada before the Hon'ble High Court in contempt case No.1354 of 2020 for non compliance of the orders dated.20.11.2018 of Hon'ble High Court of A.P. in W.P.No.39531 of 2012. The contempt case is posted on 03.09.2021.

9. As the Writ Appeal No.218 of 2020 fled before Hon'ble High Court of A.P. and also Special Leave Petition (C) No. 014095-14097 of 2020 and review petition filed before the Hon'ble Supreme Court of India were dismissed, Government after careful examination of the matter in consultation with advisory departments hereby accord permission to the Commissioner of Collegiate Education of Andhra Pradesh to implement the orders of the Hon'ble High Court of A.P, dated:20.12.2018 in W.P.No.39531 of 2012 for regularizing the services of (1) Uppalapati Madhuri PTL in Commerce , (2) T.Chitti Babu PTL in Telugu, (3) G.Ranga Rao PTL in Physics, (4) K.Somayya PTL in Geography, (5) Kum.VAS Sridevi PTL in Economics (6)P.V.Lakshmi PTL in Zoology of DNR College, Bhimavaram, West Godavari District, duly invoking Memo.No.573/225/A3/PC.III/97, Finance Department, dated.01.09.1997 i.e., with prospective effect from the date of issue of orders by Competent appointing authority, on condition that the said vacancy is clear, regular and continued from time to time till date, to avoid further legal complications.

10. This order applies for the above mentioned candidates only and shall not be taken as a precedent, either now or in the future.

11. The Commissioner of Collegiate Education, A.P, Vijayawada shall take further action accordingly.

12. This order issues with the concurrence of the Finance Department, vide their U.O.No.,FIN01-FMU0MISC/57/2021-FMU-THE Computer No.1350108 dated:23.04. 2021.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SATISH CHANDRA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner of Collegiate Education,
Andhra Pradesh, Vijayawada,
The individual (through the CCE, A.P. Vijayawada.)

Copy to:

The Accountant General, A.P. Hyderabad/ Vijayawada.
The Director of Treasuries and Accounts, A.P, Vijayawada,
The Pay and Accounts Ofcer, A.P, Vijayawada.
The P.S to Secretary to Chief Minister.
The Addl.P.S to Minister [Education].
The P.S to Chief Secretary .
The P.S to Spl.C.S to Higher Education Department,
The Advocate on Records, A.P, Supreme Court of India, New Delhi.
The G.P for Higher Education, High Court of A.P. Amaravati.
Finance (FMU-THE) Department
Law Department,
Sf/Sc.

// FORWARDED :: BY ORDER//

SECTION OFFICER